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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,739	09/30/2004	Claus Augenstcin	016906-0345	9918
22428	7590	06/14/2007	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			BOLES, DEREK	
		ART UNIT	PAPER NUMBER	
		3749		
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		06/14/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/509,739	AUGENSTEIN ET AL.
	Examiner Derek S. Boles	Art Unit 3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 April 2007.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 and 18-20 is/are rejected.
- 7) Claim(s) 17 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 September 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7-11, 13-15 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoshino et al. (5,791,558). See abstract, figs. 1 and 3, **1** for the housing, **4** for the pump, **15** for the rotor, **11** for the drive shaft that extends into the cooling chamber, **14** for the heat generation chamber, **WJ1** to **WJ2** for the cooling jacket/chamber, **2** for the protuberance. Regarding claims 10 and 11, see **2b** for the cooling ribs.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 3-5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino et al. in view of Perhats (4,308,994). Hoshino et al. discloses all of the limitations of the claim(s) except for the pump being magnetically driven. Perhats discloses the presence of a pump being magnetically driven. See fig. 3, and **22**. Hence, one skilled in the art would find it obvious to modify the system of Hoshino et al. to include the pump being magnetically driven of Perhats for the purpose of energy conservation.

Claim(s) 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino et al. in view of Perhats and in further view of Lopatinsky et al. (6,388,346). Hoshino et al. in view of Perhats discloses all of the limitations of the claim(s) except for the pump wheel consisting of magnetizable plastic. Lopatinsky et al. discloses the presence of impellers being comprised of magnetizable plastic. See abstract and summary. Hence, one skilled in the art would find it obvious to modify the system of Hoshino et al. in view of Perhats to include the magnetizable plastic impellers of Lopatinsky et al. for the purpose of providing an opportunity to employ a magnetic drive.

***Allowable Subject Matter***

Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 4/2/07 have been fully considered but they are not persuasive. Applicant argues that Hoshino's impeller is not in a cooling chamber. However, 4 is a pump chamber that resides in a cooling chamber that extends from wj1 to wj2. Further, the term adjacent has no concrete definition as to the distance one element is from another element. Therefore, the cooling chamber housing Hoshino's pump is considered adjacent to Hoshino's heat generating chamber. Regarding claims 3-5, Perhats' impeller is not arranged in a coolant chamber as applicant has indicated. However, Perhats' impeller is cited to illustrate its' magnetic drive because Hoshino's impeller is already in a coolant chamber.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Boles at (571) 272-4872 or supervisory patent examiner Josiah Cocks at (571) 272-4874.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.S.B.

*Derek S. Boles*  
**PRIMARY EXAMINER**  
**GROUP 3700**

6/8/07